



Signed: October 23, 2006

RANDALL J. NEWSOME
U.S. Bankruptcy Judge

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17 **UNITED STATES BANKRUPTCY COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **OAKLAND DIVISION**

20 In re

21 Case No.: 06-40547-RJN

22 **PREDIWAVE CORPORATION,**
23 a California corporation

24 Chapter 11

25 Debtor.

26 Fed. Tax I.D. No. 77-0494328

27 **STIPULATED ORDER BY AND AMONG
28 THE DEBTOR AND DEBTOR-IN-
POSSESSION, CERTAIN AFFILIATES OF
THE DEBTOR, THE OFFICIAL
COMMITTEE OF CREDITORS HOLDING
UNSECURED CLAIMS AND NEW
WORLD TMT LIMITED RE EXPANSION
OF ADMINISTRATION OF AFFILIATE
CASH & ESTABLISHMENT OF
SUPPLEMENTAL BAR DATE**

[No Hearing Requested]

1 This Stipulated Order Re Expansion of Administration of Affiliate Cash and
2 Establishment of Supplemental Bar Date (the "Stipulated Order") is entered into by and
3 among the following parties (collectively, the "Parties", and each, a "Party"): (1) PrediWave
4 Corporation, the above-captioned debtor and debtor-in-possession ("PrediWave" or the
5 "Debtor"), (2) each of the following affiliates of the Debtor (the "Affiliates"): CyberLancet
6 Corporation, CyberNova Corporation, TechStock Corporation, WarpEra Corporation,
7 Visionaire Technology Corporation, S.T.U.B. SATertainment, Incorporated, S.T.U.B.
8 SATertainment USA, Incorporated, Athena Database, Incorporated, Pine Global Marketing
9 Limited, Pine Global Marketing (USA), Incorporated, Intellambda Systems, Inc. (formerly
10 known as LightPath Networks, Corp., "Intellambda"), and PrediWave (Canada),
11 Corporation, (3) the Official Committee of Creditors Holding Unsecured Claims (the
12 "Committee") and (4) New World TMT Limited (formerly known as New World
13 Infrastructure Limited) ("New World") ("New World"), with reference to the following
14 agreed upon facts and circumstances:

15 **RECITALS**

16 A. On May 25, 2004, New World filed a complaint against PrediWave,
17 CyberLancet Corporation, CyberNova Corporation, TechStock Corporation, WarpEra
18 Corporation, Visionaire Technology Corporation, S.T.U.B. SATertainment, Incorporated,
19 Athena Database, Incorporated, Pine Global Marketing Limited (collectively, but excluding
20 PrediWave, the "Other Corporate Defendants") and Mr. Tony Qu (sometimes collectively,
21 with PrediWave and the Other Corporate Defendants, the "Defendants") in the Superior
22 Court of the State of California for the City and County of Santa Clara (the "Santa Clara
23 Court"), case no. 04-CV020369 (the "Santa Clara Action"). PrediWave filed cross-claims
24 against New World in the Santa Clara Action, which is still ongoing.

25 B. On April 14, 2006 (the "Petition Date"), the Debtor filed a voluntary petition
26 for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in
27 the United States Bankruptcy Court for the Northern District of California, Oakland Division
28 (the "Court" or "Bankruptcy Court"), case number 06-040547 RN (the "Bankruptcy Case").

1 C. Both pre and post-petition, PrediWave has furnished certain administrative
2 services for the Affiliates.

3 D. On July 16, 2006, an Order of the Bankruptcy Court was entered authorizing
4 the Debtor to employ Dennis I. Simon of XRoads Solutions Group, LLC ("XRoads"), to
5 serve as the Debtor's chief restructuring officer, Dawn Ragan of XRoads to serve as the
6 Debtor's chief financial officer, and XRoads to serve as the Debtor's general financial and
7 restructuring advisor [Docket No. 229] (the "XRoads Employment Order"). As a result of its
8 services, and the administrative services being performed by the Debtor for the Affiliates,
9 XRoads has become familiar with the Debtor's operations and finances, and, as a result of the
10 various administrative and other services rendered by the Debtor for the Affiliates, is
11 becoming increasingly familiar with the operations and finances of the Affiliates.

12 E. The Debtor, the Other Corporate Defendants and New World currently are
13 engaged in settlement discussions. One of the issues in contention among the parties is the
14 continuing role of Mr. Tony Qu (the chief executive officer, president, and chairman of the
15 board of directors for the Debtor and each of the Affiliates, and the majority shareholder of
16 the Debtor and the Other Corporate Defendants) with the Affiliates. While Mr. Qu
17 previously has been removed as a signatory for the Debtor's bank accounts, New World has
18 strong objections to Mr. Qu having any control (directly or indirectly) over the cash of the
19 Affiliates. Without binding any party to the outcome of those discussions, the parties believe
20 that it would be appropriate, as an interim measure designed to preserve the prospects of a
21 consensual resolution of the various disputes, to expand the administrative services currently
22 being performed by the Debtor for the Affiliates such that, pending further order of the
23 Court, the Debtor, by and through Dennis I. Simon and/or Dawn Ragan of XRoads, shall
24 exercise sole power and authority to initiate wire transfers, cash transfers and conduct
25 banking transactions for the Affiliates. The Committee agrees that such an arrangement is
26 appropriate under the circumstances.

27 F. On the Petition Date, PrediWave filed its Creditor Mailing Matrix (the
28 "Creditor Matrix") pursuant to Bankruptcy Rule 1007(a)(1). On April 19, 2006, the Clerk of

1 the Court (through the Bankruptcy Noticing Center or "BNC") served a notice of the
2 commencement of the case, the date and time for a meeting of creditors, the bar date and the
3 bar date for governmental units ("Clerk's Notice") on approximately 292 parties, which
4 appear to be the same parties listed in the Creditor Matrix. The first date set for the section
5 341(a) meeting of creditors was May 15, 2006. The last date to file proofs of claim generally
6 in this case was fixed at August 14, 2006 (the "Original Bar Date"). In the weeks prior to the
7 Parties entering into this Stipulated Order, PrediWave identified approximately 100 former
8 employees that were not listed in the Creditor Matrix (the "Former Employees") and
9 therefore are unlikely to have received the Clerk's Notice.

10 G. In order to further facilitate a resolution of the Prediwave case, the parties
11 hereto agree and seek relief from the Bankruptcy Court for authority, to establish a
12 supplemental claims bar date that is applicable only to the Former Employees who (i)
13 previously were not served by the Clerk of the Court with the Clerk's Notice, (ii) have not
14 otherwise received notice of the Original Bar Date in this case, and (iii) have not filed a
15 proof of claim in the case.

16 H. Notwithstanding anything to the contrary in this Stipulated Order, if any,
17 nothing herein is intended to be, or shall be construed, as (1) an admission or concession by
18 any of the Defendants in the Bankruptcy Case or the Santa Clara Action (in each case, as
19 applicable) or (2) an admission or concession by any Party concerning matters pertaining to
20 the appointment of a trustee, substantive consolidation, alter ego and the like.

21 [continued on next page]

STIPULATED ORDER

After considering the Recitals (above), all other pleadings and declarations filed in support thereof, and the record in this case, this Court finds that: (1) the Court has jurisdiction over the matter that is the subject of this Stipulated Order pursuant to 28 U.S.C. §§ 157 and 1334, venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and the matter (insofar as it relates to the Debtor and its estate) is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (2) notice of the relief sought in the Stipulated Order was adequate and appropriate under the particular circumstances and no other notice need be given; (3) XRoads and its professionals remain "disinterested" persons as that term is defined in section 101 of Bankruptcy Code and do not hold or represent an interest adverse to the Debtor which would preclude XRoads and its professionals from continuing to be employed by the Debtor under section 327(a) of the Bankruptcy Code; (4) the expanded employment of XRoads and its professionals is in the best interests of the estate; and (5) that the factual bases set forth in the Recitals of this Stipulated Order establish good and sufficient cause for this Court to grant the relief herein.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The administrative services currently being performed by the Debtor for the Affiliates shall be, and are hereby, expanded such that pending further order of the Court (and/or, in the case of Intellambda only, pending the closing of any sale of stock or assets of Intellambda to a bona fide, third party purchaser (the "Intellambda Sale")), the Debtor, by and through Dennis I. Simon and/or Dawn Ragan of XRoads shall exercise sole power and authority to initiate wire transfers, cash transfers and conduct banking transactions for the Affiliates (and each of the Affiliates shall immediately undertake such actions as may be necessary to effectuate such control including, without limitation, identifying for XRoads the institution and account number for each of its bank accounts and cooperating with XRoads in connection with any reasonable efforts by XRoads to confirm the same and, if applicable, identify bank accounts not previously identified by such Affiliate). Without limiting the generality of the preceding, Dennis I. Simon and/or Dawn Ragan of XRoads shall be, and are

1 hereby, authorized to act as signer on, and to conduct any and all banking and depository
2 transactions and arrangements for, the Affiliates; such actions shall be, and are hereby,
3 expressly authorized without the requirement of any corporate actions or resolutions of the
4 Affiliates; and all banking and depository institutions shall be, and are hereby, directed to
5 accept and honor (and shall be entitled to rely on) any directions of Dennis I. Simon and/or
6 Dawn Ragan concerning such matters. Except as to Intellambda where the preceding
7 arrangements shall terminate contemporaneously with the closing of an Intellamda Sale (and
8 without further order of the Court), the preceding arrangements may not otherwise be
9 modified without further order of the Court.

10 2. The expansion of XRoads employment on the terms set forth herein shall be,
11 and is hereby, APPROVED, and the XRoads Employment Order shall be, and is hereby,
12 amended to authorize the Debtor to employ XRoads for such purposes, with such
13 engagement letter or an amendment to XRoads' existing engagement letter to be entered into
14 by the Debtor and XRoads memorializing the same, with compensation on an hourly rate
15 basis as set forth in XRoads existing engagement letter, that is at the expense of the Debtor's
16 estate and in such amounts as this Court may hereafter allow following review, and subject
17 to the Guidelines for Compensation and Reimbursement of Professionals and Trustees
18 promulgated by this Court pursuant to Bankruptcy Local Rule 9029-1. The XRoads
19 Employment Order shall otherwise remain in full force and effect including, without
20 limitation, the provisions therein which provide that XRoads shall be entitled to seek, as part
21 of any interim or final fee application, to have different guidelines apply to compensation for
22 its air travel time.

23 3. 4:00 p.m. (Pacific Time) on the date that is twenty-five (25) days from the date
24 the Notice (defined in Paragraph 4 hereof) is served (as contemplated in Paragraph 4 hereof)
25 shall be, and is hereby, fixed as the supplemental bar date (the "Supplemental Bar Date") for
26 the filing of proofs of claim in this case, which bar date shall be applicable only to the
27 Former Employees who (a) previously were not served by the Clerk of the Court with the
28 Clerk's Notice, (b) have not otherwise received notice of the Original Bar Date in this case,

1 and (c) have not filed a proof of claim in the case. Except as otherwise provided herein, all
2 other parties shall remain subject to the Original Bar Date established in this case pursuant to
3 Bankruptcy Local Rule 3003-1 for parties that are not governmental units (August 14, 2006),
4 or, with respect to governmental units, the bar date established for such parties under Federal
5 Rule of Bankruptcy Procedure 3002(c)(1) (October 11, 2006).

6 4. The form of notice attached as Exhibit "1" to the Notice re Proposed Form of
7 Notice of Supplemental Bar Date filed in the Bankruptcy Case on October 20, 2006 [Docket
8 # 324] (the "Notice"), the Official Form 10 (Proof of Claim), and the procedures for filing
9 proofs of claim described therein shall be, are hereby, APPROVED. PrediWave shall be,
10 and is hereby, authorized to serve the Notice and proof of claim form, by first class mail, on
11 the Former Employees no less than twenty-five (25) days prior to the Supplemental Bar
12 Date, which service shall be deemed to be adequate notice of the matters set forth therein to
13 the addressees thereof.

14 5. The Court shall have jurisdiction over any and all matters and disputes arising
15 out of, relating to or otherwise in connection with the interpretation of this Stipulated Order
16 or the implementation thereof including, without limitation, matters and disputes relating to
17 the expansion of the administrative services of the Debtor for the Affiliates on the terms set
18 forth herein.

19 6. Notwithstanding anything to the contrary in this Stipulated Order, if any,
20 nothing herein is intended to be, or shall be construed, as (a) an admission or concession by
21 any of the Defendants in the Bankruptcy Case or the Santa Clara Action (in each case, as
22 applicable) or (b) an admission or concession by any Party concerning matters pertaining to
23 substantive consolidation, alter ego and the like.

24 7. This Stipulated Order shall be effective immediately upon entry, with no stay
25 of enforcement in effect.

26 [continued on next page]

1 **STIPULATED AND AGREED TO BY:**

2 /s/ Vincent Lin

3 Vincent Lin, the Responsible Individual,
4 Vice President of Operations, and General Counsel
5 for the Debtor and Debtor in Possession

6 /s/ Tony Qu

7 Tony Qu, Chief Executive Officer and President
8 for the Debtor and Affiliates and
9 as a shareholder of the Debtor and Debtor in
10 Possession and the Other Corporate Defendants

11 /s/ Dumas Chow Wai Sang

12 Dumas Chow Wai Sang, General Counsel
13 for New World Limited TMT,
14 as a creditor and shareholder of
15 the Debtor and Debtor In Possession
16 and the Other Corporate Defendants

17 /s/ Jas Mundra

18 Chair of Official Committee of Creditors
19 Holding Unsecured Claims

20 **APPROVED AS TO FORM BY:**

21 /s/ Jonathan S. Shenson

22 Jonathan S. Shenson, a Member of
23 KLEE, TUCHIN, BOGDANOFF & STERN LLP
24 Reorganization Counsel for the Debtor
and Debtor in Possession

25 /s/ Karol K. Denniston

26 Karol K. Denniston,
27 PAUL HASTINGS JANOFSKY & WALKER LLP
28 Counsel for New World TMT Limited

29 /s/ John D. Fiero

30 John D. Fiero
31 PACHULSKI, STANG, ZIEHL, YOUNG, JONES & WEINTRAUB, LLP
32 Counsel for Official Committee of Creditors Holding Unsecured Claims

33 /s/ Todd Doyle

34 Todd Doyle, General Counsel of
35 XROADS SOLUTIONS GROUP, LLC
36 Financial and Restructuring Advisor
37 for the Debtor and Debtor in Possession

38 ***** END OF ORDER *****

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